IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3957 OF 2006

M/s.Indian Ex-Services League
Maharashtra through its General
Secretary ... Petitioner

versus

Vishwanath Joshi & others. ... Respondents

Shriram S. Kulkarni for petitioner.
S.M.Shettigar for respondent no.1.
S.K.Chinchalikar, AGP for respondents 3 to 5.
Virkumar Joshi for respondent no.2.

CORAM : A.P.DESHPANDE, J.

DATE : 13th December 2006

PC :

1. Rule. Made returnable forthwith. Taken up for final hearing by consent of the parties.

2. The petitioner is a registered public trust governed by the provisions of Bombay Public Trusts Act. The petitioner trust has about 32 district centres through whom the petitioner operates. There are about 15,000 members of the petitioner trust. It is undisputed that the election of the trust is due to be held as the

term of the body which claims to have been elected in the year 2003, has expired. The Managing Committee which claims to have been elected in the elections purported to have been held in the years 2000 and 2003, has filed Change Reports before the Deputy Charity Commissioner. The said change reports came to be rejected and aggrieved thereby the appeals came to be filed before the Joint Charity Commissioner by the group headed by one Mr.S.H.Joshi. Along with the appeal, a stay application was moved but the Joint Charity Commissioner has rejected the stay application and instead, permitted the Managing Committee which was elected in the year 1997-98, to look after the administration of the trust. A further direction has been given to the Managing Committee which claims to have been elected in the year 2003 and who had filed the appeal, to hand over the charge to the managing committee elected in the year 1997-98. The reason for issuing such directions are two fold namely (i) that the change report in regard to the election held in 2000 and 2003 are rejected by the Deputy Charity Commissioner and (ii) that a sum of Rs.60,000/- was withdrawn by the appellants group, though the change reports were rejected.

3. What is relevant to notice is that the period for which the earlier managing committee was elected, has come to an end and fresh elections are due to be held in 2006. The present petitioner so also respondent no.1 are agreeable for appropriate directions being issued by this Court for holding of impartial elections of the managing committee. Whereas, respondent no.2 insist that the managing committee which was elected in the year 1997-98 should be placed in charge of the affairs of the trust and they should be permitted to conduct the elections. Having regard to the totality of the facts and circumstances of the present case I have no iota of doubt in my mind that the cause of justice would advance, if the due elections are conducted under the supervision of the Joint Charity Commissioner by appointing one of his Officers as an Administrator for the purpose of conducting the elections.

4. Whatever decisions are taken by the defacto trustees, who have taken administrative decisions in regard to the management of the trust during the term 2000 to 2006, shall be accountable for those decisions. However, unless and until impartial elections are held, there would not be

an end to the on going disputes. The trust property is in danger of being vasted and hence I find it appropriate and fit to direct the Joint Charity Commissioner to appoint one of his Officers for the purpose of holding the elections of the trust and during the intervening period, he shall look after and administer the affairs of the trust. One of the officers from the office of the Joint Charity Commissioner shall be appointed as an Administrator who shall take over the charge of the administration of the trust. The present petitioner and respondent nos.1 and 2 and all other persons who are in any way connected with the trust and who are holding the charge, books of accounts etc. of the trust, are directed to hand over the same to the Administrator forthwith. The Joint Charity Commissioner shall appoint the Administrator within a period of one week from today. It shall be permissible for the administrator to withdraw the requisite amount by operating the bank account/s of the trust for the purpose of day to day expenses and for the purposes of incurring expenses for holding of the elections of the trust. As the activities of the trust are said to be spread over in 30 districts and is being carried on by the district centres, the

administrator will require man power for conducting the election. Thus, it is made clear that it shall be open for the administrator to hire the services of independent impartial persons for conducting the elections. No one who is connected with the trust, shall be permitted to associate himself for the purpose of conduct of the election. All questions touching the election, will be raised before the Administrator who shall act as an Election Officer and he shall decide all such questions and the same shall not be called in question until the actual election is over. I hope and trust that the Administrator will proceed to finalise the voters list and hold and complete the election within a period of two months from today.

5. Rule is made absolute in the above terms. The Charity Commissioner/Joint Charity Commissioner to act on an ordinary copy of this order duly authenticated by the registry of this Court.

(A.P.DESHPANDE, J.)